

IN THE CIRCUIT COURT  
FOR THE TENTH JUDICIAL CIRCUIT  
PEORIA COUNTY, ILLINOIS

Running Central, Inc. an Illinois  
Corporation, d/b/a RC Outfitters

Plaintiff,

v.

Governor Jay Pritzker,  
in his official capacity

Defendant.

THIS CASE IS SET FOR A MANAGEMENT CONFERENCE  
ON 5/28/2020 @ 1:15 PM IN COURTROOM 203  
OF THE PEORIA COUNTY COURTHOUSE.  
IF THE DEFENDANT(S) ANSWERS(S) MORE THAN 35 DAYS  
BEFORE THIS DATE, THEN THE PARTIES SHALL  
SCHEDULE A CASE MANAGEMENT CONFERENCE WITHIN  
25 DAYS OF THE DATE THE ANSWERS PLED

Case No. 2020-CH20-CH-00128

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

NOW COMES the Plaintiff, RUNNING CENTRAL, INC., an Illinois corporation, d/b/a RC OUTFITTERS, ("RUNNING CENTRAL") by and through its attorneys, CASSIDY & MUELLER, P.C., and for their **VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF** against Defendant, GOVERNOR JAY ROBERT PRITZKER ("PRITZKER"), in his official capacity, and hereby alleges as follows:

**COMMON ALLEGATIONS**

1. On March 09, 2020, PRITZKER issued a proclamation declaring, as of that date, a disaster existed within Illinois due to the COVID 19 outbreak. (See **Exhibit 1** hereinafter referred to as the "Disaster Proclamation")

2. PRITZKER issued the Disaster Proclamation pursuant to the authority granted to him under the Illinois Emergency Management Agency Act. (20 ILCS 3305). (See Section I of the March 09 Proclamation)

3. The Act states: "In the event of a disaster, as defined in Section 4, the Governor may by proclamation declare that a disaster exists." (See 20 ILCS 3305/7). Section 4 of The Act defines a disaster as follows:

"Disaster" means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, or acts of domestic terrorism. (See 20 ILCS 3305/4)

4. On March 9, 2020, as a result of the COVID-19 pandemic, PRITZKER declared all 102 counties within the State of Illinois to be a disaster area.

5. The Act confers specific enumerated powers upon the Governor of the State of Illinois once a disaster declaration has been made. (See 20 ILCS 3305/2(a)(2)). Amongst those enumerated powers are thirteen (13) emergency powers as provided in Section 7 of the Act. (20 ILCS 3305/7).

6. Section 7 of the Act expressly states:

"Upon such proclamation, the Governor shall have and may exercise for a period not to exceed 30 days the following emergency powers ...".

7. Pursuant to the statutory authority granted PRITZKER under 20 ILCS 3305/7 following the Disaster Proclamation, on March 20, 2020 PRITZKER issued Executive Order 2020-10, which is attached hereto as **Exhibit 2**, and which provides, in pertinent part, as follows:

**"Non-essential business and operations must cease.** All businesses and operations in the State, except Essential Businesses and Operations as defined below, are required to cease all activities within the State except Minimum Basic Operations, as defined below. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e. working from home)."

...

**Enforcement.** This Executive Order may be enforced by State and local law enforcement pursuant to, *inter alia*, Section, 7, Section 18, and Section 19 of the Illinois Emergency Management Agency Act 20 ILCS 3305”

8. RUNNING CENTRAL is an Illinois corporation with its' principal place of business located in Peoria County, Illinois at 311 SW Water Street, Peoria, Illinois.

9. RUNNING CENTRAL is a retail walking and running shoe and clothing store which does not qualify as an Essential Business and Operations as that term is defined by Executive Order 2020-10. Consequently Executive Order 2020-10 had the effect of requiring RUNNING CENTRAL to lock the doors to the public and close its store located at 311 SW Water Street, Peoria, IL.

11. Executive Order 2020-10 was, on its face, effective from March 21, 2020 through April 07, 2020.

12. On April 01, 2020 PRITZKER issued a second Proclamation relating to COVID-19 which is attached hereto as **Exhibit 3.** (the "April 01 Proclamation.").

13. In the April 01 Proclamation, PRITZKER declares the COVID-19 pandemic to be a "continuing public health emergency." which provides PRITZKER with authority as follows:

“...This proclamation continues the Governor’s authority to exercise all of the emergency powers provided in Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7.”

14. On that same date of April 01, 2020, PRITZKER issued Executive Order 2020-18, which is attached hereto as **Exhibit 4.**

15. Executive Order 2020-18 extended a number of previously issued Executive Orders including, *inter alia*, Executive Order 2020-10 requiring so-called non-essential businesses to cease operations, through April 30, 2020.

16. On April 30, 2020, PRITZKER issued Executive Order 2020-32 which, although not further extending the closure of all non-essential businesses to cease operation, continued to severely restrict business activity through May 29, 2020. A copy of Executive Order 2020-32 is attached hereto as **Exhibit 5** and provides, in pertinent part, as follows:

**Requirements for non-essential stores.** Retail stores not designated as Essential Businesses and Operations may re-open for the limited purpose of fulfilling telephone and online orders through pick-up outside the store and delivery – which are deemed to be Basic Minimum Operations.  
...”

17. As a direct result of the sequential Executive Orders, PRITZKER has acted to deprive RUNNING CENTRAL of its rights, including, but not limited, the right to conduct its lawful business within the State of Illinois.

18. Although Executive Order 2020-32 allows limited business operations, the business restrictions imposed thereby effectively preclude the operation of RUNNING CENTRAL'S business operation thereby depriving Plaintiff of his lawful rights.

**COUNT I**  
**DECLARATORY JUDGMENT**

For Count I of its cause of action, seeking declaratory relief, RUNNING CENTRAL states:

1-18. Plaintiff restates and realleges paragraphs 1-18 of the Common Allegations as and for paragraphs 1-18 of Count I as if fully restated herein.

19. This cause of action is brought pursuant to 735 ILCS 5/2-701 for declaration of the authority, rights and obligations of the parties under The Illinois Emergency Management Agency Act (20 ILCS 3305) and the Illinois Constitution.

20. Executive Order 2020-32 provide that the authority being exercised therein arises from The Illinois Emergency Management Agency Act (20 ILCS 3305) and the Supreme Executive Power clause of the Illinois Constitution. (Art. V, Sec 8).

21. To the extent that Executive Order 2020-32 purports to be issued pursuant to the Illinois Emergency Management Agency Act, PRITZKER'S authority is strictly circumscribed by that Act.

22. The COVID 19 disaster declaration under the Act by PRITZKER occurred on March 9, 2020.

23. The Act unambiguously provides that the emergency powers granted to PRITZKER upon the declaration of a disaster shall exist "for a period not to exceed 30 days". Therefore, pursuant to the express language of the Act, PRITZKER'S emergency powers expired no later than April 8, 2020.

24. Despite the express statutory language limiting PRITZKER'S emergency powers to 30 days following the disaster declaration, on April 1, 2020 issued a Proclamation declaring that: "...[t]his proclamation continues the Governor's authority to exercise all of the emergency powers provided in Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7."

25. On that same day of April 1, 2020, PRITZKER issued Executive Order 2020-18 which, *inter alia*, extended the closure of non-essential businesses to April 30, 2020, well past the statutory expiration of the emergency powers under the Act upon which the Order is premised.

26. On April 30, 2020, PRITZKER issued Executive Order 2020-32 which, *inter alia*, continues to severely limit the business operations of non-essential businesses to May 29, 2020, well past the statutory expiration of the emergency powers under the Act upon which the Order is premised.

27. In an attempt to justify the continued exercise of emergency powers under the Act, Executive Order 2020-32 purports to be based upon a new disaster declaration on April 30, 2020

for all Illinois counties due to the same COVID 19 outbreak which was the basis of the March 9th Disaster Declaration.

28. There is no language of the Illinois Emergency Management Agency Act which can reasonably be construed to allow PRITZKER to declare successive disasters arising from the same occurrence and, thereby, circumvent the express statutory 30 day limitation on the exercise of emergency powers.

29. PRITZKER, under the color of authority granted him by The Act, is improperly attempting to utilize the emergency powers for more than 30 days from the declaration of disaster resulting from the COVID-19 outbreak which was pronounced on March 9, 2020.

30. PRITZKER, in issuing redundant disaster declarations acknowledging the same COVID-19 outbreak, is attempting to re-start the emergency provisions of The Act for the sole purpose of rendering the statutory 30-day limitation placed on his emergency powers by the legislature illusory and meaningless.

31. PRITZKER'S reliance upon the Supreme Executive Power clause of the Illinois Constitution (Art V., Sec 8) as a basis for continued exercise of emergency powers is equally flawed.

32. Article V, Section 8 of the Illinois Constitution states that "the Governor shall have the supreme executive power and shall be responsible for the faithful *execution* of the laws". (emphasis added).

33. Executive Order 2020-32 does not merely seek to execute an existing law but rather, seeks to establish a new law beyond the scope of PRITZKER'S executive power. As such, Art V., Sec 8 of the Illinois Constitution provides no legal authority for its issuance. (See *Buettell v. Walker*, 59 Ill. 2d.146, 153-154 (1974)).

34. An actual controversy exists between the parties in regard to the authority of PRITZKER to issue and enforce emergency orders under the Act for more than 30 days following the March 9, 2020 disaster declaration in that RUNNING CENTRAL has been put out of business and, thereby, deprived of significant property rights as a direct result of PRITZKER'S exercise of extra-statutory and unconstitutional authority.

35. An immediate and definitive determination is necessary to clarify the rights and interests of the parties.

WHEREFORE, Plaintiff, RUNNING CENTRAL, INC. an Illinois Corporation, d/b/a RC OUTFITTERS, herein requests that this Honorable Court enter an Order adjudicating and declaring that:

- A. PRITZKER declared the COVID-19 pandemic a state-wide disaster on March 09, 2019; and,
- B. The emergency powers granted PRITZKER under the Illinois Emergency Management Agency Act as a result of the Disaster Proclamation extended for no more than 30 days thereafter; and,
- C. The emergency powers granted PRITZKER under the Act as a result of the March 9 Disaster Proclamation lapsed on April 08, 2020; and,
- D. Executive Order 2020-10 lapsed on April 8, 2020; and,
- E. Executive Order 2020-18 extending the effective date of, *inter alia*, Executive Order 2020-10 until April 30, 2020 was null and void as of April 8, 2020; and,
- F. There is no authority granted to PRITZKER under the Illinois Constitution or the Illinois Emergency Management Agency Act to support the issuance of Executive Order 2020-32; and,

- G. Executive Order 2020-32 is unenforceable by the State of Illinois as a matter of law;  
and,
- H. Awarding the Plaintiff his costs incurred in this matter as may be allowed by law; and
- I. Such other and further relief as is just and proper.

**COUNT II**  
**INJUNCTIVE RELIEF**

For Count II of its cause of action, seeking injunctive relief, RUNNING CENTRAL states:

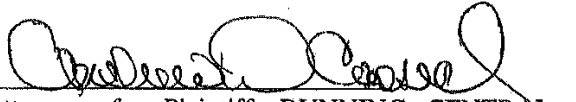
1. RUNNING CENTRAL restates and realleges paragraphs 1-35 of Count I as and for paragraphs 1-35 of Count II as if fully restated herein.
2. RUNNING CENTRAL has a right to insist PRITZKER's executive orders comport to the confines of the authority granted PRITZKER under the Act.
3. RUNNING CENTRAL is being irreparably harmed each and every day beyond April 30, 2020 in which he continues to be subjected to the restriction of its business activity as a result of the enforcement of Executive Order 2020-32.
4. RUNNING CENTRAL has no adequate remedy at law to prohibit PRITZKER, and all law enforcement agency authorized under the Executive Orders, from enforcing Executive Order 2020-32 against it absent an injunction from This Court ordering the same.
5. There is a reasonable likelihood of success on the merits in that the Disaster Proclamation resulting from the COVID-19 pandemic originated on March 09, 2020 and as such any emergency powers granted to PRITZKER resulting therefrom lapsed no later than April 08, 2020.

WHEREFORE, Plaintiff, RUNNING CENTRAL, INC. d/b/a RC OUTFITTERS, prays that this Honorable Court enter judgment in its favor enjoining Defendant, GOVERNOR JAY ROBERT PRITZKER, in his official capacity, and anyone under his authority from enforcement



of the business restrictions set forth in Executive Order 2020-32, and/or any of its predecessor Executive Orders, against Plaintiff, RUNNING CENTRAL, INC. d/b/a RC OUTFITTERS and for such other and further relief as the Court deems just and equitable.

CASSIDY & MUELLER, P.C.



Attorneys for Plaintiff, RUNNING CENTRAL,  
INC., an Illinois corporation d/b/a RC  
OUTFITTERS

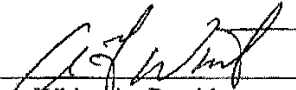
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**VERIFICATION**

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, if any, and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Date: 5/1/2020

RUNNING CENTRAL, INC., d/b/a RC  
OUTFITTERS, Plaintiff

By:   
Adam White, its President